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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,635	12/11/2001	Helmut Ruckert	AP9673	3938

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EXAMINER

PEZZLO, BENJAMIN A

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 07/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/913,635

Applicant(s)

RUCKERT ET AL.

Examiner

Benjamin A Pezzlo

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19,22,25,26 and 28-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19,22,25,26 and 28-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "retaining spring being undetachably connected to the carrier plate" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

2. Claims 25-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, it is unclear how two spring elements can each have a first portion on opposite sides of the piston and also be simultaneously on opposite sides of the piston.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3683

4. Claims 19, 22, 28, 29, and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Winter (DE 19705803).

Winter discloses a brake pad and brake piston assembly including a brake piston having an outer surface encircled by a circumferential groove (see Fig. 2) a retaining spring 4 coupled to a brake pad, wherein the retaining spring engages the circumferential piston groove thereby detachably coupling the brake pad to the piston, wherein the retaining spring includes at least one spring element having a first portion 4a which applies an axial spring force at two contact point locations on opposite sides of the piston to urge the brake pad against the piston, and a second portion 4c which applies a radial spring force to the brake pad at one contact point location in a vertical direction which is generally perpendicular to an axis of travel of the piston.

Re claim 19, see carrier plate 1 and friction lining 6.

Re claim 22, see Fig. 1, the portion of the spring near "6" in the Figure has a corresponding portion on the other side of the piston.

Re claims 28-29, see Fig. 2.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winter (DE 19705803) in view of Verbeeten et al. (US 5816370).

Art Unit: 3683

Winter fails to disclose a retaining plate configured as a damping plate. Verbeeten et al. disclose a damper plate for a disc brake lining. It would have been obvious to one of ordinary skill in the art to which the invention pertains at the time the invention was made to have included a retainer plate configured as a damping plate according to the teachings of Verbeeten et al. in order to provide the Winter assembly with noise damping properties.

### ***Response to Arguments***

7. Applicant's arguments filed 12 June 2003 have been fully considered but they are not persuasive.

Re claim 31, note that the first portion 4d of Winter contacts the piston through an arc of more than 180 degrees and thus applies an axial spring force at two contact point locations on opposite sides of the piston. Further note that the force vector applied to the brake pad by portion 4c is in the direction defined by the portion 4d. Thus, the vector has a component which is vertical and generally perpendicular to an axis of travel of the piston, and therefore, claim 31 reads on Winter.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin A Pezzlo whose telephone number is (703) 306-4617. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on (703) 308-3421. The fax phone numbers for the

Application/Control Number: 09/913,635

Page 5

Art Unit: 3683

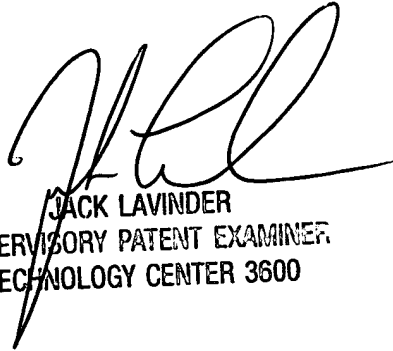
organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 308-3519 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

BAP

June 24, 2003

BAP  
6/24/03

  
JACK LAVINDER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600